

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
WHITE PLAINS DIVISION

ALAN KACHALSKY, CHRISTINA :
NIKOLOV, and SECOND AMENDMENT :
FOUNDATION, INC., et al. :
:
Plaintiffs, : **CASE NO: 10-CV-05413 CS**
:
v. :
:
SUSAN CACACE, JEFFREY A. COHEN, and :
COUNTY OF WESTCHESTER, et al. :
:
Defendants. :
:
X

Application of *Amicus Curiae* Westchester County's Firearms Owners Associations, Inc. to file an *Amicus* Brief

Through the undersigned, *amicus* Westchester County Firearm Owners Association, Inc. (“WCFOA”) applies to the Court to file a brief as *amicus curiae* in this case for the facts and reasons stated below. The proposed brief is attached hereto as Exhibit A for the convenience of the Court and counsel. Plaintiffs consent to the filing of this brief. The Westchester County Firearm Owners Associations, Inc. is serving copies of this application and its exhibit on all counsel today.

The Westchester County Firearm Owners Association, Inc. is an organization consisting of over 15,000 members and affiliate gun owner members, mainly Westchester residents. Its purpose is to promote legal gun ownership, safe gun handling and legislative action protecting the rights of lawful gun owners to keep and bear arms.

A district court has broad discretion when deciding whether or not to grant third parties leave to file an *amicus* brief (see *City of New York v. U.S.*, 971 F. Supp. 789, 791 n.3 (S.D.N.Y.

1997). Here, *amicus* has a compelling interest in the federal courts' interpretation of the issues raised by this case. *Amicus* thus respectfully submits the attached brief to assist the Court with the constitutional issues in this case.

The proposed brief provides an overview of recent cases decided by the Supreme Court of the United States, discusses the constitutional right of self-defense and the constitutional right to keep and bear arms, which includes the right to carry a handgun for self-defense. The brief also discusses the application of Penal Law §400.00 by Westchester County Court judges in the denial of full carry licenses to Westchester residents which places a burden on the applicant to demonstrate "proper cause" for the issuance of a full carry license. *Amicus* WCFOA has a compelling interest in assuring that its members and all residents are afforded their constitutional rights to keep and bear arms pursuant to the Second Amended and therefore, respectfully submits the attached brief to assist the Court in deciding the complex and significant issues raised in this matter.

CONCLUSION

For the foregoing reasons, *amicus curiae* the Westchester County Firearm Owners Association, Inc. respectfully requests that the Court grant leave to file the attached *amicus* brief.

Dated: Rye, New York
February 23, 2011

Respectfully submitted,

PISCIONERE & NEMAROW, P.C.

By: _____/s/_____
ANTHONY G. PISCIONERE (AGP1598)
Attorneys for Amicus
Westchester County Firearms
Owners Association
363 Boston Post Road
Rye, New York 10580

Tel. No.: (914) 835-6900
Facsimile (914) 835-6931
tony@pnesqs.net

/s/
DAVID B. KOPEL
Adjunct Professor of Advanced Constitutional Law,
Denver University, Sturm College of Law
13952 Denver West Parkway, Suite 400
Golden, Colorado 80401
Tel. No.: (303) 279-6536
Facsimile (303) 279-4176
dave@davekopol.org